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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

In re RIPPLE LABS INC. LITIGATION,

Case No. 4:18-cv-06753-PJH

This Document Relates to:

ALL ACTIONS

**LEAD PLAINTIFF BRADLEY
SOSTACK'S OBJECTION TO JOINT
STIPULATION TO CONTINUE
NOTICED HEARING DATE AND
RESPONSE TO MOTIONS TO DISMISS
IN THE *TOOMEY* ACTION**

Judge: Hon. Phyllis J. Hamilton

Lead Plaintiff Bradley Sostack respectfully submits this Objection to the Joint Stipulation to Continue Noticed Hearing Date and Response to Motions to Dismiss ("Stipulation," ECF No.

153), filed on October 26, 2021, by plaintiffs Tyler Toomey and Markas Sergalis (“*Toomey Plaintiffs*”), defendants Foris, Inc., Foris Dax, Inc., and Foris DAX Global Limited (collectively, the “*Foris Defendants*”), and defendant MCO Malta Dax Limited (“*MCO*”). The scheduling relief sought by the Stipulation should be denied.

On September 20, 2021, the Court consolidated the *Toomey* action with this *In re Ripple Labs, Inc. Litig.* action for pretrial purposes. ECF No. 149. The Court also vacated all hearing dates for noticed motions. The consolidation order issued in the *Toomey* action explained that, “to the extent that the newly-consolidated action involves legal issues arising only under Florida state law, or involves legal issues relating to defendants that are not named in *In re Ripple*, those issues will not be addressed until the court has resolved the legal issues raised by the earlier filed action.” *Toomey v. Ripple Labs, Inc.*, Case No. 3:21-cv-06518, ECF No. 85.

On October 20, 2021, the *Foris Defendants* filed a Motion for Clarification (ECF No. 150), asking the Court to reverse course and address issues relating to the *Foris Defendants* now despite the Court’s clear instruction that it would address them later. The next day, the *Toomey Plaintiffs* filed a response and argued that the Court had effectively stayed resolution of the *Toomey* action pending resolution of the issues raised in this consolidated action. ECF No. 152 at 2. Then, on October 25, 2021, Lead Plaintiff also responded to the *Foris Defendants’* Motion for Clarification, reiterating that the Court’s consolidation orders in *In re Ripple* and in *Toomey* had vacated any hearing dates in *Toomey* and delayed resolution of any legal issues relating to defendants not named in *In re Ripple* (*i.e.*, the *Foris Defendants* and *MCO*). ECF No. 152.

Now, days after asking the Court to follow a vacated briefing schedule, the *Foris Defendants* propose a new briefing schedule. Likewise, days after telling the Court that they understood the *Toomey* action to be stayed, the *Toomey Plaintiffs* now join the *Foris Defendants’* request to set new briefing deadlines.

For the reasons explained in Lead Plaintiff’s Response to *Foris Defendants’* Motion for Clarification, there is no reason for the Court to address issues raised by defendants not named in *In re Ripple* at this stage in the proceedings. ECF No. 152 at 2–3. There is no prejudice to the *Foris Defendants* or to *MCO* resulting from the mere fact that they are defendants in a stayed

lawsuit. *Id.* The issues raised in the *Toomey* action substantially overlap with those being litigated in *In re Ripple*. *Id.* at 3. The *Toomey* Plaintiffs are members of the putative class in *In re Ripple*, no parties have objected to consolidation, and it is the Court-appointed Lead Plaintiff, not the *Toomey* Plaintiffs, that is “empowered to control the management of the litigation as a whole.” *Id.* at 3 (quoting *In re Bank of Am. Corp. Securities, Derivative & ERISA Litig.*, 2010 WL 1438780, at *2 (S.D.N.Y. Apr. 9, 2010)). Mr. Toomey, who claims a mere \$48.56 in damages, is not the proper party to litigate issues that will impact all members of the putative class. *See Toomey v. Ripple Labs et al.*, No. 4:21-cv-0615-PJH, ECF No. 58 (Motion to Appoint Lead Plaintiff) at 4. Nor is Mr. Sergalis, who did not join Mr. Toomey in seeking appointment as lead plaintiff. *See generally id.*

The Court’s orders were clear. The *Toomey* action is effectively stayed pending resolution of *In re Ripple*. For the reasons above and in Lead Plaintiff’s Response to Foris Defendants’ Motion for Clarification, that should not change. The Stipulation should be denied.

Dated: October 28, 2021

By: /s/ P. Ryan Burningham
P. Ryan Burningham

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